MINUTES

COMMUNITY POLICE REVIEW COMMISSION
TRAINING SESSION
City of Riverside
February 6, 2001, 6 p.m.
Mayor's Ceremonial Room

Present: Commissioners Brewer, Egson, Garcia, Gardner, Goldware, Howe, and Redsecker

Absent: Commissioners Hendrick and Huerta

Interim Chair Garcia called the meeting to order at 6:14 p.m.

Motion was made by Commissioner Brewer and seconded by Commissioner Gardner to approve the minutes for the January 30th Training Session. The minutes were approved unanimously.

Motion was made by Commissioner Egson and seconded by Commissioner Redsecker to approve the following corrections to the minutes of the January 24th Training Session:

After giving a brief explanation of how the discussion would proceed, Executive Director Williams introduced Councilwoman Joy Defenbaugh. *Councilwoman Defenbaugh said that the Commission is important as a policy advisor.* She said that attendance is important for a quorum and a full discussion and interchange among the commissioners. *She stressed the importance of thorough complaint investigations. She said that the Commission must be fair and objective so the community can have confidence in their findings.* She also stated that the Commission has to build trust within the community, the Police Department and among themselves. She said there is a lack of trust in public areas and the Commission has a responsibility to help build trust in public business. She ended by thanking the commissioners for volunteering to serve on the Commission.

Executive Director Williams introduced Councilwoman Maureen Kane, chair of the committee established to form the Community Police Review Commission. Councilwoman Kane agreed with all that had been said by her colleagues, but added that there is more to the Commission than reviewing Internal Affairs investigations. She said that the councilmembers read the minutes of the Commission meetings so they can understand what took place. She also stated that the Commission is an advisory body regarding Police Department policy. *The Commission must also track problems and, if a pattern is seen, recommend that corrective action be taken.* She said the Commission can function like an auditor on items such as equipment needs, policy, structure and funding for the Police Department and is the vehicle by which this is communicated to the community and the City Council. She stressed the importance of public outreach by the Commission and said that trust occurs when a community sees changes have been made. She finished by stating that whatever system this Commission creates now is the role into which succeeding commissioners will be placed and said that the Commission has Council support.

Motion carried unanimously.

EXECUTIVE DIRECTOR'S COMMENTS
Executive Director Williams spoke about the first CPRC monthly report, which had been given to the commissioners. He said that although the report was dated January 2001, it covered November and December

2000 as well. He asked the commissioners to review it and offer any suggestions they might have. He also noted that the report will be included on the CPRC website once it's up and running.

Mr. Williams spoke next about his follow-up of some suggestions that had been made at the previous meetings. One had been made by Commissioner Goldware to have the CPRC brochures included as an insert in the Chambers of Commerce monthly newspaper. Mr. Williams said that he'd been playing phone tag with the suggested contact and had not yet had a chance to speak with her.

The other follow-up was concerning Commissioner Redsecker's request for a copy of the complaint form. A copy of the RPD's Complaint Control Form and the "admonishment" form were given to the commissioners to review after which there was discussion about the two forms. Commissioner Redsecker noted that the complaint form notes that the signature is optional, but the other form doesn't. Commissioner Goldware was concerned that the inconsistency might keep people from filing complaints. Mr. Williams noted that there had recently been a case in the City of San Bernardino where the use of the admonishment had been contested and that a federal court had ruled it's use unconstitutional. He noted that when these forms are sent to complainants, our cover letter states that California Penal Code requires that this form be provided to the complainant, but that the complainant does not have to sign it and that their complaint will be handled in the same manner whether or not the form is signed. Interim Chair Garcia asked Executive Director Williams to check on the signatures lines of the forms.

The last item was a brief discussion regarding name badges for the CPRC commissioners and staff. A photocopied sample of two badges was passed around and it was decided, without formal motion, that the sample with the smaller font be used as the basis for the CPRC name badges.

PUBLIC COMMENTS

Mary Shelton commented that she'd read about the San Bernardino case and the court's decision and has no problem with signing the form or informing other people of the law. She said the Commission should get legal input on the issue of the form from other than the City's Legal Department as they tend to be very conservative. She asked about the monthly report and if it would be separate from the Internal Affairs reports. She also stressed the need for community outreach saying that the Commission needs to have a better forum for the community than the public comments portion of their meetings.

Executive Director Williams responded by saying that he is working on community outreach. He said that he wants to set up meetings with community groups, himself and two to four commissioners and would like to hold discussions similar to the panel discussion on January 24th.

TRAINING – Mr. Curt Hofeld, Dep. District Attorney, Riverside County

Executive Director Williams introduced Mr. Hofeld. He said that when the commissioners evaluate cases, they will be doing what Mr. Hofeld does when he reviews criminal cases, among which are looking at witness credibility, reviewing different laws, and constitutional issues.

Mr. Hofeld began by speaking about Probable, or Reasonable Cause, which he defines as articulable facts which can be evaluated by an independent party such as a judge or magistrate together with what a reasonable officer with the same training and experience would conclude. He said that civilians can operate on a "hunch", whereas police officers cannot. He stated that an officer who is not qualified to arrive at a particular decision, or who doesn't have the training, can act upon the advice and incorporate the knowledge of other individuals, such as a field training officer. He said that this issue needs to be understood by the commissioners when they are confronted with complaints that an officer acted without probable cause and that they must evaluate these cases in terms of what a reasonable officer would do in the same situation. He said that probable cause to arrest is a different issue than probable cause to detain because arrest essentially says that there is a strong suspicion that a crime has been committed and that there is a strong suspicion that the individual sought to be arrested is responsible for that crime and that the crime and identity must be demonstrated by some probable cause. He

cautioned not to think that an officer operates under a standard of reasonable doubt, because they do not. He noted that, to detain a person, an officer need only have a reasonable suspicion of a criminal activity involving the person detained and that it is not even required that the officer establish that a crime occurred. Mr. Hofeld continued, saying that sometimes individual things can happen when a person is detained to generate additional justification to detain and that, based on his training and experience, an officer may be able to articulate probable cause for arrest.

Mr. Hofeld referred to CALJIC 2.90 (Presumption of Innocence, Reasonable Doubt, Burden of Proof), which is in a set of instructions given by a judge to a jury at the end of a case and that pertain mostly to rules of evidence. He said that the Commission can apply the same standards in evaluating the various cases that will be submitted to them for their consideration and conclusion and this is a way of constrasting the burden of proof on which officers act, which is probable or reasonable cause. He noted that all the evidence must be considered, but it doesn't mean it has to be accepted. He said evidence can be considered and rejected, but must at least be considered and that an abiding conviction regarding the charge, based on the evidence, must be reached and the appropriate verdict applied. He reminded the commissioners to remember that this standard is not applicable to the police.

Mr. Hofeld identified eight categories of citizen complaint cases that the Commission would most likely review at some point. The categories, with examples, are as follows:

1) DETENTION WITHOUT ARREST
An individual is detained, but not arrested, and this offends him. If there are articulable facts, reasonably held by the officer that would justify detention, the officer's conduct was proper as long as the detention was not so prolonged as to violate other issues.

2) ARREST WITHOUT CHARGES
An individual is arrested, but no charges are filed. The individual files a complaint. The officer's burden of proof is probable cause to believe that a crime occurred and that the person arrested is responsible for that crime. But the D.A. looks at the police report, and taking into consideration the facts of the incident (time, place, a lack of independent witnesses), realizes that the case can't be proved beyond a reasonable doubt. Therefore the case is rejected and no charges are filed. The officer and the D.A. have acted properly.

3) CHARGES LATER DISMISSED (Some or all)
A person is arrested and the D.A. files the case, but later on finds evidence that lead to credibility issues making impossible for the D.A. to meet their burden of proof. D.A. dismisses or reduces the charges. The person complains, saying he was arrested and charged, but that the D.A. agreed with him that the case could not be met by the burden of beyond reasonable doubt and now wants to sue. However, the officer arrested him based on probable cause. The D.A.'s office filed the case on the initial belief that proof beyond a reasonable doubt could be attained, but learned through later investigation that they could not and, based on their new information, dismissed the charges. The officer and the D.A. both acted properly.

4) CHARGED CRIME DIFFERENT FROM ARREST CRIME
A person gets into a fight while out drinking and is arrested for battery. But after taking the person into custody, the officer notices the person has pin-point eyes, is licking his lips and has a high pulse rate. The officer believes the person to be under the influence of a controlled substance. The officer submits his report, noting the circumstances of the fight and also states the person was under the influence of a controlled substance. When the D.A. sees the case, he has the choice of filing a case pertaining to the fight or a case pertaining to under the influence. The D.A. determines that the better case to file would be the under the influence case involving an officer-witness with expertise as opposed to the fight where the witnesses were most likely drunk. The person goes to court and finds out the charges are not for the fight, but for being under the influence of a controlled substance. He complains. The officer, based on his observations, had probable cause to arrest for both battery and under the influence. The D.A. recognized that the battery case was not a good case and chose

the better of the two charges to file. Both the officer and the D.A. did their jobs and the individual has no constitutional cause to complain.

5) SEARCHES WITH A SEARCH WARRANT

Searches are potentially violent and dangerous and people don't like the violence that is involved in the execution of a search warrant. The question regarding a search warrant is whether or not there is probable cause for the issuance of the warrant and was the manner of its execution complied with legally. Mr. Hofeld noted that people will complain about the way in which a search warrant is executed. The issue with which the commissioners will be faced will be to decide whether there's a constitutional issue given the fact that a warrant is given extraordinary legal preference.

6) SEARCHES W/O A SEARCH WARRANT

Mr. Hofeld stated that many people think that that every search must be with a search warrant or that it is an illegal search. He said that searches, with or without a warrant, have to be done based on probable cause. Some examples of proper searches made without a search warrant would be where there is a search that is incident to an arrest where the individual is arrested on probable cause, is patted down, and baggies containing drugs are found in their pockets. There is no legal requirement in this case. Another example of a search without a warrant is if there are exigent circumstances. This can occur when an officer has information that there may be a minor who is in physical or mental peril or in danger of bodily injury. A search without a warrant can then occur. Or if there is evidence of a body that may be in a house, a search without a warrant can be conducted to look for survivors.

Mr. Hofeld noted that there are three major differences between a search with and without a warrant. The first is that when you have a search warrant, a neutral and detached party, such as a magistrate or judge, has evaluated the circumstances in a sedate way and has determined whether or not there is probable cause for the issuance of the warrant. Second, even if the officer makes a an honest mistake in giving the magistrate information the officer believes justifies the issuance of the warrant, the officer is entitled to a "good faith" exception. Mr. Hofeld explained that even where the warrant is technically defective, good faith will allow the fruits that flow from that warrant to be admitted as evidence because the officer has done what the law wants him to do, when possible. And third, when there is a search warrant, the burden of proof is on the person searched to overturn probable cause. If the search is conducted without a warrant, the burden is on the prosecution to show that there was probable cause for the search.

7) ARREST ON A WARRANT

There are search warrants and arrest warrants. Mr. Hofeld explained that an arrest warrant is an order to a law enforcement officer go and find someone and bring them to court for a listed charge and is supported by an affidavit or declaration. He said that the that warrant answers two questions – first, is there enough evidence to establish, by probable cause, the elements of the crime for which the arrest is sought, and second, is there some evidence to show that the person being sought for arrest is responsible for that crime. If the answer to both questions is yes, then an arrest warrant can and will be issued. Mr. Hofeld also stated that if an individual thinks that the arrest warrant is wrong, they have no constitutional right to resist the execution of that warrant on the street, but may do so in court.

8) USE OF FORCE

Mr. Hofeld divided this topic into two segments – use of force by everyone else and use of force by police officers.

a) Self-Defense By Everyone Else

Mr. Hofeld said that there is a two-point foundation when talking about self-defense. That is the person must have an actual belief that they have to defend themselves, and that a reasonable person would agree with this belief. There is also the defense of others and the same analysis applies in that the person must have the actual

belief in the need to defend and that need agreed to by a reasonable person in the same circumstance. There is a limitation, he noted, and that is necessary force, which is force that is reasonable but that prevents the injuries.

b) Self-Defense By Police Officers

Mr. Hofeld noted that by the nature of their occupation officers are in a different situation than civilians and that they don't ordinarily have a choice about whether or not to go into harm's way. He explained that self-defense against assault is, again, an actual belief in the necessity and is what is called a subjective standard, where the actual person subjectively believes "I need to defend myself." A reasonable person is someone with the same training and experience as the police officer. The officer has the benefit of knowing that their standard will be judged by individuals in the same situation as themselves. Mr. Hofeld said that California law can be augmented by other restrictions from an administrative standpoint but nothing that will prevent an agency or department from augmenting these situations with other restrictions. Mr. Hofeld said that for an officer to defend against someone else actual belief is needed – would a reasonable officer, not a reasonable person, agree with the officer and then there must be a limitation of force to that which is reasonable and that prevents the injury to the person who is being defended. Mr. Hofeld also commented on an officer's duty to retreat, noting that, under California law (with a big asterisk), there is no duty to retreat. However, he again stated that a department is at liberty to augment this general principal of law with other restrictions, and that a department could say that in certain circumstances, an officer has a duty to retreat. He reiterated that this is an administrative restriction, not a legal restriction. Commissioner Goldware asked if high-speed pursuits could be an instance where this could apply. Mr. Hofeld responded by saying that is a good analogy, but that he was referring more to assaultive conduct rather than pursuit of a fleeing felon. He again stated that there is a difference between what the law requires and what a department requires as a matter of departmental policy.

Mr. Hofeld next reviewed several use-of-force cases. The first was Tennessee vs. Garner which involved the police shooting and killing an unarmed, fleeing suspect who was a minor, and who was not known to the police as having been involved in a crime involving serious harm or violence. This case basically states that deadly force can be utilized where the officer has probable cause to believe that the suspect poses the threat of serious physical harm to the officer(s) or to others. Commissioner Goldware asked about the decision made in this case. Mr. Hofeld said that it isn't so much the decision that is important as the rule that was established in terms of the standard of proof regarding the utilization of deadly force.

The next case reviewed was Carter vs. Chattanooga in 1987. The plaintiff in this case tried to utilize Garner retroactively. The Federal Appeals Court said Garner is not retroactive.

Graham vs. Conner, 1989, was reviewed next. This case dealt with the way in which the use of force was supposed to be evaluated. There was a conflict as to whether or not to utilize a 4th Amendment standard of objective reasonableness or a due process standard, which would have been much more liberal in terms of allowing these types of litigation. The U.S. Supreme Court said that the 4th Amendment standard, which is called objective reasonableness, would apply. Mr. Hofeld explained that objective reasonableness means not what is reasonable in terms of the individual who was involved, which is subjective reasonableness, but what is reasonable to a person, under those circumstances, with similar training and experience, or, would a police officer in the same circumstances act the same way and come to the same conclusions.

The Vera Cruz vs. City of Escondido case was a dog-bite case and the question was "Is the use of a police dog deadly force?" This case triggered a type of Garner analysis, asking is that going to be the deadly force that will cause us to investigate the use of that particular instrument in police work. This case said that the use of a police dog is not deadly force. Mr. Hofeld said that there's no requirement of any belief held on the part of the suspect that the suspect poses harm to the officer or to other persons so you don't reach a point where the relationship between the suspect and possible danger to the officer or others is analyzed, as in Garner. This case complains about the use of the dog from the standpoint of a constitutional issue and in Vera Cruz there is none.

Forrett vs. (Riverside) Richardson, 1997, was a very violent, very serious, home-invasion robbery/burglary, case, where there were shots fired and strong evidence that the suspect was armed and using a firearm. The suspect was shot by police officers while hopping a fence. He thought that was improper and brought a suit against the City of Riverside. Mr. Hofeld noted that the man was the individual who committed the home invasion robbery, so it wasn't a "who dunit." Mr. Hofeld said that the question here was "How do we judge the time at which the decision to use deadly force is implemented? Do we judge based on what we know at the end of the case where it was determined that the person who was shot hopping the fence was at that time unarmed, although there is strong evidence that he was armed earlier? Or do we go with some other standard closer in time to the call which brought the officers on scene in the first place?" The Federal District Court of Appeals held in Richardson that judgment should be based on what the officers know at the time at the scene, not in hind-sight, but that the knowledge must be implemented reasonably. This judgment has to coincide with that of a reasonable officer with the same training and experience and the conclusions that would be reached in the same circumstances.

Scott vs. Henrich, 1994 is a federal court case involving a barricaded suspect with shots fired. The various options available to the police officers were being reviewed because the officers chose not to commence their involvement with the suspect using the least intrusive means of involving themselves. The issue raised by Mr. Scott was that the officers should have started with the least intrusive and increased their conduct from there. The court said that officers would not be required to begin with the least intrusive means, which might be a phone call, and proceed from there to increasing levels of involvement. It was determined that this was a response to a situation that was created by the suspect and that his priority is not put ahead of safety or the officers choice in options. Mr. Hofeld stated that all these cases establish a baseline for behavior and evaluation and different departments can augment them with additional regulations.

Mr. Hofeld next covered rules of evidence. He said that when cases are submitted to the D.A., the submitting officers will sometimes submit cases based on their opinion that the case is demons ratable beyond a reasonable doubt. He said that often, that opinion will agree with the D.A.'s, but not always. He noted that the D.A. is guided by whether the evidence submitted is sufficient to prove guilt beyond a reasonable doubt at that time; can the D.A. meet the burden of proof at the time it's submitted, not based on further investigation at some point in the future. If the answer is no, the D.A. is not ethically obliged not to file a case that cannot proven by the required burden of proof. Mr. Hofeld said that when a case is submitted, the D.A. has three choices: 1) to file or charge a crime or crimes, which says the D.A. feels that the case can be proved beyond a reasonable doubt; 2) not to file charges, Mr. Hofeld said that the impact of the decision to not file a charge is irrelevant to the question of the presence or absence of probable cause, and that the decision not to file charges is irrelevant to the question of whether the police officer's conduct was proper or improper; 3) maybe, or as Mr. Hofeld terms it, not yet. This happens when a case is reviewed and it's determined that there are other things that need to be done, the case can be sent be back to have additional witnesses interviewed, the same witnesses reinterviewed asking specific questions that need to be asked so that other questions can be answered. Mr. Hofeld continued, saying the D.A. may be concerned about foreclosing defenses, "he started it therefore I defended myself."; to confirm defenses, determining that the person really did do what the complaint against him alleges; to resolve factual ambiguities such as the scope of the damage or injuries or the sequence of events; to resolve legal ambiguities - is there in fact a rational self-defense; or to resolve, if possible, burden of proof questions. He said just because the case is sent back and additional investigation is conducted, it doesn't mean that when the case is resubmitted with the answers to those questions, that the D.A. is legally obliged to then file or charge the case. They still have to ask, "Can we prove the crime by the burden of proof of beyond a reasonable doubt? Can we prove responsibility for the crime by the burden of proof of beyond a reasonable doubt?" He said that there is no legal impact on the decision to send a case back for further investigation. He noted that individuals may files complaints, saying that the police sent the case to the D.A., but he rejected it, therefore I want to complain. They may have a complaint, but that complaint has no bearing on the D.A.'s decision not to file, but it is an independent choice on questions other than the propriety of police conduct.

Commissioner Howe asked when the D.A. uses its own investigators to obtain additional information. Mr. Hofeld said that they are used after a decision has been made to file charge where additional "clean-up work" is needed, or in trial preparation to track down documents, arrange photos, take photos or additional photos and things of that nature.

Mr. Hofeld continued speaking about evidence. He said that there are some very good reasons to organize the approach to factual inquiry into a systematic one. He said to standardize the approach to problems because credibility and strength of evidence must be evaluated and decisions must be made on what version of facts are most persuasive to you. He told the commissioners that they should understand that whatever they do decide will probably be challenged by someone somewhere, quite possibly in a court of law. He said that if the Commission has a sound protocol that recognizes the reality of evidentiary analysis as it exists in California, that they will have, as a result, an earned and deserved air of objectivity and credibility.

Mr. Hofeld said that in California there are no exceptions, no important case, no emergency case, where the rules of evidence are set aside. He noted that they apply in every case, from the most inconsequential to the most significant. He said that if rules are applied, whatever those are chosen to be, if a standard of proof is applied, whatever that is chosen to be, protocols will be established that will become habit and custom and practice that can be relied upon, even where there is a lack of specific recollection of what was done in a specific case years ago. He noted that if there are protocols that can be followed, that can be articulated, that a decision can be made that will reflect a sound exercise of discretion. He said that if there are rules which have been established, chaos can be avoided and predictability maximized.

Mr. Hofeld said that evidence is essentially two things: concrete evidence which is things presented to the senses, things which are seen, tasted, touched, smelled and heard. It is also testimony and it is also a series of rules for admission. He noted that there are two types of evidence, direct evidence and circumstantial evidence and they are both legally equivalent. He also reviewed rules of exclusion and admission and spoke about some of the objections that could be made to offers of evidence. He noted that the evidence must be relevant by addressing important questions, and that it must be probative, answering the questions one way or the other.

Mr. Hofeld noted several objections to evidence. He stated that the evidence must be relevant. Hearsay is an objection and will be excluded from evidence as being untrustworthy. The foundation of evidence must be solid, such as a witness with personal knowledge. Privilege, such as doctor-patient or clergy-penitent, can keep evidence from being admitted in court.

Mr. Hofeld advised the commissioners of what he calls legal landmines. He defined this as things that should always be looked for when evaluating testimony, reading reports, or summaries of reports. He cautioned the commissioners to be wary of reports written in a passive voice where the report says "suspect was seen, scream was heard" instead of "I saw this, I heard that." He also said to be wary of report summaries because summaries are editing jobs, including only what the writer feels is relevant.

Mr. Hofeld ended his presentation by noting several choices for formatting data. The first was chronologically, which, he noted, can be good as a starting point as it will gives some general sequencing. The next was a subject format, in which the subject matter can be listed in order of priority or importance. The third format, witnesses, is very common. In this format, an officer will talk to several witnesses about a case in sequence, going through the scenario subject and time within each witness. The fourth format is a dual column approach in which a single concise fact will be noted on each line, leaving enough space in which to write the answers given by witnesses to each fact.

Commissioner Gardner said that he understood about challenging searches with a warrant, and Mr. Hofeld said that they can be challenged, but in court, not at the time of the search. Commissioner Gardner said the real question was about how the search was carried out. He offered a hypothetical situation where pillowcases were slashed instead of being unzipped, and the homeowner/occupant feeling that was unnecessary, and asked how

that type of complaint fit in. Mr. Hofeld said that it would be of no constitutional consequence as long as there's probable cause for the issuance of the warrant and the warrant itself was executed as far as entry made in a way that conforms to 1531 of the Penal Code.

Executive Director Williams asked about cases where a suspect lives with his parents, asking if a warrant gives officers the authority to search areas other than those over which the suspect has care, custody and control. Mr. Hofeld said that search warrants are generally written for a place, and not with a particular subject in mind, although warrants can be issued, not only for places but also for a particular person. He said where you have innocent people involved in a search they have to abide by the order of the judge that the place be searched for the objects to be seized. He also noted that they have an additional legal problem in that they lack the standing to contest the seizure of items that they possess, but in which they espouse no possessory interest.

Executive Director Williams also asked about another type of situation where the suspect is living in a garage or apartment that's detached from the house. He asked if a warrant issued for the residence and everything within that property boundary would also cover the suspect's apartment or if the warrant would have to be specific to the suspect's apartment. Mr. Hofeld said that this is a common occurrence. He said that if the probable cause points to the suspect's apartment and you tried to get a warrant for the main house, the judge would want to know why. When the warrant is issued, the judge may limit its application by saying the suspect's apartment can be searched, but not the main house. He noted that if the main house is searched, that is challengeable as exceeding the legal scope of the search.

Commissioner Egson asked about a situation where there is a warrant to search only the suspect's house, but the parents decide that they want the officers to also search the main house since the suspect has access. Mr. Hofeld said that is a consent search, which can be conducted even without probable cause because it is pursuant to a valid consent. Commissioner Egson asked if that can be part of the same search.

Mr. Hofeld said that it could. He noted that sometimes one thing leads to another, such as a dope dog going ballistic when he walks up to the back porch of the main house, but there is only a warrant for the suspect's apartment. He said that in that type of situation, the officer should go back to the judge, state the probable cause, and the judge would then issue a second warrant for the house.

Chani Beeman said she felt it was an excellent presentation, but felt that what the Commission would be dealing with would messier than examples that were presented. She said she thought that this commission is going to hear complaints about how police officers execute search warrants and if those warrants are executed in a way the community feels is appropriate.

Commissioner Egson stated that a search warrant wouldn't state that pillowcases shouldn't be torn, but she said she sees this type of action as totally behavioral.

Mr. Williams said that goes back to what Mr. Hofeld said earlier about law that is constitutional, but that the a department can draw it in tighter, noting that is where administrative violation comes in. Ms. Beeman stated that the Commission's criterion isn't strictly constitutional. Mr. Williams responded by saying that's why the rules and regulations are looked at and that they are going to be tighter than constitutional law.

Ms. Beeman said that one of the big fears is that this commission shouldn't be evaluating law, saying that the Commission is a community perspective on the behavior and conduct of our Police Department in executing their job.

Commissioners Brewer and Egson disagreed. Commissioner Brewer said that if it is determined that they are within the law, then it has to be determined if they are in violation of policy and procedures within the city. He said that the commissioners need to know what the law is and whether the law is being violated.

Commissioner Egson said that the law is what brings cases to the Commission's attention, and that if no law had been broken, we wouldn't be sitting here.

Commissioner Gardner said we can go a step beyond that saying that an officer can act entirely within policy which is consistent with the law, so technically they didn't do anything wrong, but if the Commission believes that policy to be an incorrect policy, a recommendation can be made to the Police Department that it be changed.

Mr. Hofeld again said that the commissioners should read the use-of-force cases, saying that they will see how courts reason and come to conclusions.

Interim Chair Garcia thanked Mr. Hofeld for his presentation.

The Commission adjourned at 8:40 p.m.

Respectfully submitted,

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PHOEBE SHERRON
Administrative Clerk